

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

ANDREW E. LASTINGER, JR.,

Petitioner,

VS.

UNITED STATES OF AMERICA,

Respondent.

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7 : 09-CR-14 (HL)

28 U.S.C. ' 2255: 7 : 12-CV-90146 (HL)

RECOMMENDATION

Petitioner filed a Motion to Vacate, Set Aside, or Correct his Sentence pursuant to 28 U.S.C. § 2255 on September 17, 2012. (Doc. 74). By Order dated November 2, 2012, the Court directed the Petitioner to file a complete Petition on this Court's standard § 2255 Motion to Vacate form, twenty-one (21) days from the date of that Order. (Doc. 76). Petitioner was advised that his failure to file his Petition on the appropriate form could result in the dismissal of his Motion to Vacate. The Clerk of Court was directed to provide the Petitioner with the § 2255 form. *Id.*

As of March 11, 2013, the Petitioner has failed to respond to the Court's November 2012 directives. Inasmuch as Petitioner has failed to comply with the Order of this Court to file his Motion to Vacate on the proper form, it is the recommendation of the undersigned that this ' 2255 motion be **DISMISSED**. Pursuant to 28 U.S.C. ' 636(b)(1),

the parties may file written objections to this Recommendation with the Honorable Hugh Lawson, United States District Judge, WITHIN FOURTEEN (14) DAYS after being served with a copy of this Recommendation.

The undersigned finds no substantial showing of the denial of a constitutional right. 28 U.S.C. ' 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). Therefore, it is recommended that the Court deny a certificate of appealability in its Final Order. If the Petitioner files an objection to this Recommendation, he may include therein any arguments he wishes to make regarding a certificate of appealability.

SO RECOMMENDED, this 11th day of March, 2013.

s/ ***THOMAS Q. LANGSTAFF***

UNITED STATES MAGISTRATE JUDGE